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19 *Attorneys for Plaintiffs*

20 UNITED STATES DISTRICT COURT

21 DISTRICT OF NEVADA

22 KEEHAN TENNESSEE INVESTMENTS,  
23 LLC, DAVID KEEHAN, DONALD J.  
24 KEEHAN, SR., DURHAM RIDGE  
25 INVESTMENTS LLC, WESTLAKE BRIAR,  
26 LLC, KEEHAN TRUST FUNDING, LLC,  
27 DONALD J. KEEHAN, JR., and 951 REALTY  
28 LTD.

Case No. 3:14-cv-00500-RCJ-WGC

**MOTION TO REMAND TO LORAIN  
COUNTY, OHIO COURT OF COMMON  
PLEAS**

19 Plaintiffs,

20 vs.

21 GUARDIAN CAPITAL ADVISORS, INC., et  
22 al.

23 Defendants.

24 Pursuant to 28 U.S.C. §1447(c), Plaintiffs Keehan Tennessee Investment, LLC, Keehan  
25 Trust Funding, LLC, Westlake Briar, LLC, Durham Ridge Investments, LLC, 951 Realty Ltd.,  
26 Donald J. Keehan, Sr., Donald J. Keehan, Jr., and David Keehan (collectively, "Plaintiffs"),  
27 respectfully request that this Court remand this action to the Lorain County, Ohio Court of  
28 Common Pleas and require Defendants, Guardian Capital Advisors, Inc. ("Guardian"),

Praetorium Secured Fund, I, L.P. (“Praetorium”), George V. Cresson (“Cresson”), Development Finance, LP, and Kenneth A. Miller (“Miller”), (collectively, “Defendants”) to pay Plaintiffs’ costs, actual expenses, and attorney fees incurred as a result of the improper removal. The grounds for this Motion – that this Court lacks subject matter jurisdiction -- are discussed in the numbered paragraphs below:

1. Plaintiffs filed this action in the Lorain County, Ohio Court of Common Pleas on April 25, 2014. The case was styled Keehan Tennessee Investment LLC, et al. v. Guardian Capital Advisors, Inc., et al and bearing Case No. 14 CV 183315. Defendants removed the action on May 8, 2014 to the United States District Court, Northern District of Ohio, Eastern Division.

2. The basis asserted by Defendants for removal of the action from the Lorain County, Ohio Court of Common Pleas to the United States District Court for the Northern District of Ohio, Eastern Division was diversity of citizenship under the 28 U.S.C. §1332(a).

3. On January 21, 2015, this Court ordered Defendants to conduct jurisdictional discovery and file an amended statement of removal showing the citizenships of the parties. (ECF No. 71).

4. Jurisdictional discovery conducted by Praetorium and Cresson revealed that completed diversity of citizenship does not exist.

5. On February 18, 2015, Praetorium and Cresson filed a Notice of Lack of Diversity Jurisdiction. (ECF No. 72). The Notice complies with this Court’s January 21, 2015 Order by informing this Court that jurisdictional discovery was conducted and by amending their Notice of Removal to state “diversity jurisdiction is lacking.” (ECF No. 72 @ p.2).

6. In relevant part, 28 U.S.C. §1447(c) provides:

A motion to remand the case on the basis on any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the state court. The state court may there upon proceed with such case.

7. Because this Court lacks matter jurisdiction due to the incomplete diversity of the parties, pursuant to 28 U.S.C. §1447(c) Plaintiffs respectfully request that this Court issue an Order remanding the case to the Lorain County, Ohio Court of Common Pleas, c/o Lorain County Justice Center, 225 Court Street, First Floor, Elyria, Ohio 44035.

Further, Plaintiffs respectfully request that this Court retain limited jurisdiction over this matter to award Plaintiffs their costs and actual expenses including attorneys' fees incurred by Plaintiffs as a result of the removal. Plaintiffs respectfully request leave of this Court to file the Affidavit of Counsel showing costs and actual expenses, including attorney fees incurred by Plaintiffs as a result of the removal.

RESPECTFULLY SUBMITTED this 9th day of March, 2015.

/s/ *Charles J. Pawlukiewicz*

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**CERTIFICATE OF SERVICE**

1       2. On March 9, 2015, I served the following document:

3       **MOTION TO REMAND TO LORAIN COUNTY, OHIO COURT OF COMMON PLEAS**

4       2. I served the above-named document(s) by the following means to the persons as listed  
      below:

5       *(Check all that apply)*

6        a. **ECF System** (*CM/ECF system which will send notification of such filing to the e-mail  
      addresses denoted on the electronic mail notice list*)

7        b. **United States mail, postage fully prepaid on March 9, 2015:**

8                   David C. McElhinney, Esq.  
9                   Scott S. Hoffmann, Esq.  
10                  Kristen L. Martini, Esq.  
11                  LEWIS ROCA ROTHGERBER LLP  
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19                  *Praetorium Secured Fund I, L.P. and*  
20                  *George V. Cresson*

21                  Robert J. Caldwell, Esq.  
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26                  *Attorneys for Defendants,*  
27                  *Guardian Capital Advisors, Inc., and*  
28                  *Kenneth A. Miller*

22        c. **Personal Service**

23       *(List persons and addresses. Attach additional paper if necessary)*

24        For a party represented by an attorney, delivery was made by handing the  
25        document(s) to the attorney or by leaving the document(s) at the attorney's  
      office with a clerk or other person in charge, or if no one is in charge by  
      leaving the document(s) in a conspicuous place in the office.

26        For a party, delivery was made by handing the document(s) to the party or by  
27        leaving the document(s) at the person's dwelling house or usual place of  
      abode with someone of suitable age and discretion residing there.

1  **d. By direct email (as opposed to through the ECF System)**

2 (List persons and email addresses. Attach additional paper if necessary)

3 Based upon the written agreement of the parties to accept service by email or a court  
4 order, I caused the document(s) to be sent to the persons at the email addresses listed  
5 below. I did not receive, within a reasonable time after the transmission, any electronic  
6 message or other indication that the transmission was unsuccessful.

7  **e. By fax transmission**

8 (List persons and fax numbers. Attach additional paper if necessary)

9 Based upon the written agreement of the parties to accept service by fax transmission or a  
10 court order, I faxed the document(s) to the persons at the fax numbers listed below. No  
11 error was reported by the fax machine that I used. A copy of the record of the fax  
12 transmission is attached.

13  **f. By messenger**

14 (List persons and addresses. Attach additional paper if necessary)

15 I served the document(s) by placing them in an envelope or package addressed to the  
16 persons at the addresses listed below and providing them to a messenger for service.  
17 (A declaration by the messenger must be attached to this Certificate of Service).

18 **I declare under penalty of perjury that the foregoing is true and correct.**

19 Signed on March 9, 2015.

20 Danielle L. Bleecker  
21 (NAME OF DECLARANT)

22   
23 (SIGNATURE OF DECLARANT)